

BILL NO. 61

(as passed, with amendments)



*5th Session, 61st General Assembly
Nova Scotia
62 Elizabeth II, 2013*

Government Bill

Cyber-safety Act

CHAPTER 2 OF THE ACTS OF 2013

The Honourable Marilyn More
Minister responsible for the Advisory Council on the Status of Women

[First Reading](#): April 25, 2013 (LINK TO BILL AS INTRODUCED)

Second Reading: April 26, 2013

[Third Reading](#): May 10, 2013 (WITH COMMITTEE AMENDMENTS)

Royal Assent: May 10, 2013



An Act to Address and Prevent Cyberbullying

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the Cyber-safety Act.

2 The purpose of this Act is to provide safer communities by creating administrative and court processes that can be used to address and prevent cyberbullying.

3 (1) In this Act,

(a) "Court" means the Supreme Court of Nova Scotia and includes a judge of the Court;

(b) "cyberbullying" means any electronic communication through the use of technology including, without limiting the generality of the foregoing, computers, other electronic devices, social networks, text messaging, instant messaging, websites and electronic mail, typically repeated or with continuing effect, that is intended or ought reasonably be expected to cause fear, intimidation, humiliation, distress or other damage or harm to another person's health, emotional well-being, self-esteem or reputation, and includes assisting or encouraging such communication in any way;

(c) "electronic" includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means;

(d) "Minister" means the Minister of Justice;

(e) "minor" means a person who is less than 19 years of age;

(f) "parent" includes, in respect of a minor, any person who is under a legal duty to provide for the minor or any person who has, in law or in fact, the custody or control of the minor.

(2) For the purpose of this Act, where a person who is a minor engages in an activity that is cyberbullying and a parent of the person

(a) knows of the activity;

(b) knows or ought reasonably to expect the activity to cause fear, intimidation, humiliation, distress or other damage or harm to another person's health, emotional well-being, self-esteem or reputation; and

(c) fails to take steps to prevent the activity from continuing,

the parent engages in cyberbullying .

PART I

PROTECTION ORDERS

4 In this Part,

- (a) "applicant" means a person applying for a protection order;
- (b) "police officer" means a member of an agency as defined in the Police Act;
- (c) "protection order" means an order made under Section 8;
- (d) "respondent" means a person against whom a protection order is sought;
- (e) "specified person" means a person specified in a protection order and includes a member of a group of persons specified in a protection order;
- (f) "subject" means a person who, in an application for a protection order, it is alleged was subjected to cyberbullying.

5 (1) An application for a protection order may be made to a justice, without notice to the respondent, in the form and manner prescribed by the regulations, by

- (a) the subject, if the subject is not a minor; or
- (b) where the subject is a minor,
 - (i) the subject's parent,
 - (ii) a person designated by the regulations for this purpose, or
 - (iii) a police officer.

(2) Subject to subsection (3), an application for a protection order must name as a respondent any person associated with an electronic device, Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified as being used for cyberbullying, or a parent of the person if the person is a minor.

(3) Where the name of the respondent is unknown and cannot easily be ascertained, an application for a protection order may identify the respondent by an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified in the application as being used for cyberbullying.

(4) An application for a protection order may be submitted

- (a) in person, by the applicant; or
- (b) in person or by telephone or other means of telecommunication, by a lawyer, a police officer or a person designated by the regulations for this purpose, with the applicant's consent.

(5) Evidence adduced in support of an application for a protection order must be given under oath.

6 (1) A person submitting an application for a protection order by telephone or other means of telecommunication is required to

- (a) possess any document that is to be used in support of the application at the time the application is submitted;
- (b) communicate the content of the document to the justice in a manner satisfactory to the justice; and
- (c) transmit the document to the justice as soon as practicable in the manner prescribed by the regulations.

(2) A justice may administer an oath to a person and receive the person's evidence by telephone if the oath and evidence are recorded word for word by the justice.

(3) A justice shall, as soon as is reasonably possible, certify as to time, date and contents the record or transcription of an oath administered and evidence received by the justice under subsection (2) and cause the record or transcription to be filed with the clerk of the Court.

(4) A justice who hears an application for a protection order need not wait for the transmission of a document under clause (1)(c) before deciding whether to make a protection order.

(5) A protection order that is based on an application submitted by telephone or other means of telecommunication has the same effect as a protection order based on an application submitted in person.

7 Where an application for a protection order identifies the respondent in a manner set out in subsection 5(3), the justice may

- (a) order any person having custody or control of information respecting the ownership or use of any electronic device or use of any Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified as being used for cyberbullying, to disclose information to assist in identifying the respondent or, where the person is a minor, a parent of the person; and
- (b) make any other order that is necessary to identify the respondent.

8 Upon application, a justice may make a protection order, where the justice determines, on a balance of probabilities, that

- (a) the respondent engaged in cyberbullying of the subject; and
- (b) there are reasonable grounds to believe that the respondent will engage in cyberbullying of the subject in the future.

9 (1) A protection order may include any of the following provisions that the justice considers necessary or advisable for the protection of the subject:

- (a) a provision prohibiting the respondent from engaging in cyberbullying;

- (b) a provision restricting or prohibiting the respondent from, directly or indirectly, communicating with or contacting the subject or a specified person;
- (c) a provision restricting or prohibiting the respondent from, directly or indirectly, communicating about the subject or a specified person;
- (d) a provision prohibiting or restricting the respondent from using a specified or any means of electronic communication;
- (e) an order confiscating, for a specified period or permanently, any electronic device capable of connecting to an Internet Protocol address associated with the respondent or used by the respondent for cyberbullying;
- (f) an order requiring the respondent to discontinue receiving service from an Internet service provider;
- (g) any other provision that the justice considers necessary or advisable for the protection of the subject.

(2) A justice may make a protection order for a period not exceeding one year.

10 (1) A justice who makes a protection order shall immediately arrange for the preparation of a written copy of it.

(2) The justice shall immediately forward a copy of the protection order and each document submitted in support of the application to the clerk of the Court.

11 (1) A protection order must be served on the respondent in the manner prescribed by the regulations.

(2) A respondent is not bound by a protection order until served with the order.

(3) Where, upon application to a justice, it appears that

(a) attempts at service or substituted service of the protection order on the respondent have failed; and

(b) the respondent is evading service,

the justice may by order dispense with service of the protection order and the respondent is thereby deemed to be served with and have notice of the protection order.

(4) Where the subject is a minor aged 12 years of age or more, the subject must be served with the protection order in the manner prescribed by the regulations.

(5) Where the subject is a minor, a parent of the subject must be served with the protection order in the manner prescribed by the regulations.

12 (1) As soon as practicable after making a protection order and in any event within two working

days, the justice shall forward a copy of the order and all supporting documentation, including a transcript or recording of the proceedings, to the Court in the prescribed manner.

(2) Within such period as the regulations prescribe of the receipt of the protection order and all supporting documentation by the Court, the Court shall review the order and, where the Court is satisfied that there was sufficient evidence before the justice to support the making of the order, the Court shall

(a) confirm the order; or

(b) vary the order,

and the order as confirmed or varied is deemed to be an order of the Court.

(3) Where, on reviewing the protection order, the Court is not satisfied that there was sufficient evidence before the justice to support the making of the order, the Court shall direct a hearing of the matter in whole or in part before the Court.

(4) Where the Court directs that a matter be heard, the clerk of the Court shall

(a) issue a summons in the prescribed form requiring the respondent to appear before the Court; and

(b) give notice of the hearing to the subject or, where the subject is a minor, a parent of the subject,

and the subject or, where the subject is a minor, a parent of the subject, is entitled to attend and may fully participate in the hearing personally or by counsel.

(5) The evidence that was before the justice must be considered as evidence at the hearing.

(6) Where the respondent fails to attend the hearing, the protection order may be confirmed in the respondent's absence.

(7) At the hearing, the Court may confirm, terminate or vary the protection order.

13 (1) Where satisfied that it is fit and just to do so, the Court, upon application at any time after a protection order is confirmed or varied by the Court, may by order

(a) remove or vary any term or condition in the order;

(b) add terms and conditions to the order; or

(c) revoke the order.

(2) Where the Court is advised that there is an agreement that the protection order should be varied or revoked, but is not satisfied that the agreement is free and voluntary, the Court may adjourn the hearing to allow legal or other advice to be obtained.

(3) Section 11 applies mutatis mutandis to an order made pursuant to this Section.

14 (1) The respondent or the applicant may appeal to the Nova Scotia Court of Appeal a decision made under Section 12 or 13, on a question of law, in accordance with the Civil Procedure Rules.

(2) An appeal does not operate as a stay of proceedings, and the protection order under appeal may be enforced as though no appeal were pending unless a judge of the Supreme Court of Nova Scotia or the Nova Scotia Court of Appeal otherwise orders.

15 (1) An application for a new protection order may be made in accordance with Section 5 if

(a) a protection order has expired or will expire within the next 30 days; and

(b) a person believes that there is a continuing need for a protection order.

(2) The respondent's compliance with a protection order does not by itself mean that there is not a continuing need for a protection order.

16 (1) Where any person involved in a proceeding relating to an application for a protection order is a minor, no person shall publish or broadcast the name of that person, or any information likely to identify that person.

(2) For greater certainty, subsection (1) continues to apply once the subject, respondent or witness is no longer a minor.

17 On the request of any person involved in a proceeding relating to a protection order, the Court may make an order prohibiting the publication or broadcast of the name of a person involved in a proceeding relating to the protection order, or any information likely to identify that person, if the Court is satisfied that the publication or broadcast could endanger the safety or well-being of that person.

18 (1) A person who contravenes Section 16 or an order made under Section 17 is guilty of an offence and liable on summary conviction

(a) in the case of an individual, to a fine of not more than \$5,000 or imprisonment for a term of not more than two years, or both; and

(b) in the case of a corporation, to a fine of not more than \$50,000.

(2) An officer, director, employee or agent of a corporation who directs, authorizes, assents to, permits or participates or acquiesces in the contravention of Section 16 or an order made under Section 17 may be convicted of an offence under subsection (1), whether or not the corporation has been prosecuted or convicted.

19 (1) Any person who fails to comply with a protection order is guilty of an offence.

(2) Any person who, knowing that a protection order has been made, causes, contributes to or permits activities that are contrary to the order, is guilty of an offence.

(3) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction

to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or both.

20 (1) The Minister may make regulations for the purpose of this Part

- (a) respecting the forms to be used and procedures to be followed for making an application for a protection order and for hearing applications for protection orders, including the transmission of applications for protection orders;
 - (b) respecting other forms, including information to be contained on the form of protection orders;
 - (c) designating persons or classes of persons for the purpose of Section 5;
 - (d) respecting the forwarding of protection orders and other documents to the Court by justices;
 - (e) prescribing the period within which the Court must review a protection order and confirm or vary the order;
 - (f) respecting the form and manner of serving notices, summonses and other documents required to be served, issued or given, including substituted service and a rebuttable presumption of service;
 - (g) respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of this Part.
- (2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the Regulations Act.

PART II

LIABILITY FOR CYBERBULLYING

21 A person who subjects another person to cyberbullying commits a tort against that person.

22 (1) In an action for cyberbullying, the Court may

- (a) award damages to the plaintiff, including general, special, aggravated and punitive damages;
 - (b) issue an injunction on such terms and with such conditions as the Court determines appropriate in the circumstances; and
 - (c) make any other order that the Court considers just and reasonable in the circumstances.
- (2) In awarding damages in an action for cyberbullying, the Court shall have regard to all of the circumstances of the case, including
- (a) any particular vulnerabilities of the plaintiff;
 - (b) all aspects of the conduct of the defendant; and
 - (c) the nature of any existing relationship between the plaintiff and the defendant.

(3) Where the defendant is a minor, a parent of the defendant is jointly and severally liable for any damages awarded to the plaintiff unless the parent satisfies the Court that the parent was exercising reasonable supervision over the defendant at the time the defendant engaged in the activity that caused the loss or damage and made reasonable efforts to prevent or discourage the defendant from engaging in the kind of activity that resulted in the loss or damage.

(4) For the purpose of subsection (3), in determining whether a parent exercised reasonable supervision over the defendant at the time the defendant engaged in the activity that caused the loss or damage or made reasonable efforts to prevent or discourage the defendant from engaging in the kind of activity that resulted in the loss or damage, the Court may consider

- (a) the age of the defendant;
- (b) the prior conduct of the defendant;
- (c) the physical and mental capacity of the defendant;
- (d) any psychological or other medical disorders of the defendant;
- (e) whether the defendant used an electronic device supplied by the parent, for the activity;
- (f) any conditions imposed by the parent on the use by the defendant of an electronic device;
- (g) whether the defendant was under the direct supervision of the parent at the time when the defendant engaged in the activity;
- (h) in the event that the defendant was not under the direct supervision of the parent at the time at the time when the defendant engaged in the activity, whether the parent acted unreasonably in failing to make reasonable arrangements for the supervision of the defendant; and
- (i) any other matter that the Court considers relevant.

PART III

GENERAL

23 A right of action or a remedy created under this Act is in addition to, and does not affect, any other right of action or remedy available to a person under the common law or by statute.

24 (1) The Governor in Council may make regulations

- (a) defining any word or expression used but not defined in this Act;
- (b) further defining any word or expression used in this Act;
- (c) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the Regulations Act.

PART IV

EDUCATION ACT

25 Subsection 64(2) of Chapter 1 of the Acts of 1995-96, the Education Act, as amended by Chapter 5 of the Acts of 2002, Chapter 16 of the Acts of 2005, Chapter 54 of the Acts of 2008, Chapter 14 of the Acts of 2012 and Chapter 50 of the Acts of 2012, is further amended by

(a) adding "and review the policy at least once every two years" immediately after "Minister" in the third line of clause (r); and

(b) adding immediately after clause (rb) the following clause:

(rc) for the purpose of fostering an orderly and safe learning environment, co-operate with Government departments and agencies to promote and encourage safe and respectful electronic communications;

26 Sections 121 and 122 of Chapter 1 are repealed and the following Sections substituted:

120A In Sections 121 and 122, "disruptive behaviour" and "severely disruptive behaviour" mean as they are defined in the regulations.

121 Where a student in a class engages in disruptive behaviour or severely disruptive behaviour, the teacher of the class may require the student to leave the class and shall refer the student to the principal.

122 Where a student enrolled in a public school engages in

(a) disruptive behaviour or severely disruptive behaviour on school grounds, on property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop or on a school bus; or

(b) severely disruptive behaviour at a location, activity, function or program that is off school grounds and is not school-sponsored or school-related, if the behaviour significantly disrupts the learning climate of the school,

the principal, or the person in charge of the school, may take appropriate action as specified in the Provincial school code of conduct policy including suspending the student for a period of not more than five school days.

27 Section 141 of Chapter 1, as amended by Chapter 50 of the Acts of 2010, Chapter 57 of the Acts of 2011 and Chapter 14 of the Acts of 2012, is further amended by

(a) adding "(1)" immediately after the Section number;

(b) adding immediately after clause (ja) the following clause:

(jb) establish a Provincial public school network-access and network-use policy that includes defined consequences for misuse of the network by students and staff of a school;

and

(c) adding the following subsection:

(2) The Minister shall review the Provincial school code of conduct policy established under clause (1)(ja) at least once every two years.

PART V

SAFER COMMUNITIES AND NEIGHBOURHOODS ACT

28 (1) Subsection 2(1) of Chapter 6 of the Acts of 2006, the Safer Communities and Neighbourhoods Act, is amended by

(a) striking out "director under subsection 3(1)" and substituting "Director under subsection 3(1) or 26A(1)" in the second line of clause (b);

(b) adding immediately after clause (b) the following clause:

(ba) "cyberbullying" means any electronic communication through the use of technology including, without limiting the generality of the foregoing, computers, other electronic devices, social networks, text messaging, instant messaging, websites and electronic mail, typically repeated or with continuing effect, that is intended or ought reasonably be expected to cause fear, intimidation, humiliation, distress or other damage or harm to another person's health, emotional well-being, self-esteem or reputation, and includes assisting or encouraging such communication in any way;

(c) adding immediately after "Province" in the second line of clause (d) "or a Part of this Act or,";

(d) adding immediately after clause (d) the following clause:

(da) "electronic" includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means;

(e) adding immediately after clause (e) the following clause:

(ea) "minor" means a person who is less than nineteen years of age;

(f) adding immediately after clause (f) the following clause:

(fa) "parent" includes, in respect of a minor, any person who is under a legal duty to provide for the minor or any person who has, in law or in fact, the custody or control of the minor;

and

(g) adding immediately after clause (i) the following clause:

(ia) "subject" means a person who, in a complaint under Section 26A or an application under Section 26D or 26O, it is claimed was subjected to cyberbullying;

(2) Subsection 2(3) of Chapter 6 is amended by adding "or for that Part of this Act" immediately after "located" in the third line.

(3) Section 2 of Chapter 6 is further amended by adding immediately after subsection (3) the following subsection:

(4) For the purpose of this Act, where a person who is a minor engages in an activity that is cyberbullying and a parent of the person

(a) knows of the activity;

(b) knows or ought reasonably to expect the activity to cause fear, intimidation, humiliation, distress or other damage or harm to another person's health, emotional well-being, self-esteem or reputation; and

(c) fails to take steps to prevent the activity from continuing,

the parent engages in cyberbullying.

29 Chapter 6 is further amended by adding immediately before Section 3 the following subheading:

COMMUNITY SAFETY ORDER

30 Subsection 3(1) of Chapter 6 is amended by striking out "A" in the first line and substituting "Except where Section 26A applies, a".

31 (1) Subsection 6(1) of Chapter 6 is amended by adding "made to the Court" immediately after "applications" in the second line.

(2) Subsection 6(2) of Chapter 6 is amended by adding "for a community safety order" immediately after "application" in the first line.

(3) Subsection 6(3) of Chapter 6 is amended by adding "for a community safety order" immediately after "application" in the first line.

32 Subsection 8(1) of Chapter 6 is amended by adding "for a community safety order" immediately after "application" in the second line.

33 Chapter 6 is further amended by adding immediately after Section 26 the following headings and Sections:

CYBERBULLYING PREVENTION ORDER

26A (1) A person who wishes an order to be made under this Act to deal with cyberbullying shall first make a complaint to the Director stating that the person believes that the person or another person is being subjected to cyberbullying.

(2) A complaint must be made in a form and manner acceptable to the Director and include the information that the Director requires.

(3) Where the complaint is made on behalf of or with respect to another person, the Director shall obtain the consent of the other person or a parent of the other person if the other person is a minor, before taking action.

26B (1) At any time after receiving a complaint, the Director may

(a) investigate the complaint;

(b) require the complainant to provide further information;

(c) send a warning letter to the person who is identified as engaging in cyberbullying, or a parent of the person if the person is a minor, to a person associated with an electronic device, Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified in the complaint as being used for cyberbullying, or to a parent of the person if the person is a minor or to anyone else the Director considers appropriate;

(d) request an Internet service provider to discontinue service to an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified in the complaint as being used for cyberbullying;

(e) attempt to resolve the complaint by agreement or informal action;

(f) apply for an order under Section 26C, 26D, 26E or 33C;

(g) decide not to act on the complaint;

(h) take any other action that the Director considers appropriate.

(2) The decision to do any of the things referred to in subsection (1) or to stop doing any of them at any time is within the Director's sole discretion.

(3) The Director shall notify the complainant in writing if the Director decides not to act on a complaint or not to continue acting.

(4) The Director is not required to give reasons for the decision.

26C (1) Where the Director receives a complaint under Section 26A, the Director may apply ex parte to the Court for an order requiring a person who has possession or control of any of the information described in clause (2)(a) to provide the information to the Director, as required by

the order.

(2) Upon an application pursuant to subsection (1), the Court, where satisfied that the information requested may assist the Director in investigating the complaint and is in the possession or under the control of the person, may make

(a) an order requiring the person to provide to the Director

(i) any information that may help identify a person who may have used an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, that may have been used for cyberbullying,

(ii) any information that may help identify a device capable of connecting to an Internet Protocol address that may have been used for cyberbullying,

(iii) cellular telephone records,

(iv) inbound and outbound text messaging records,

(v) Internet browsing-history records, and

(vi) other records that would assist in investigating the complaint; and

(b) any other order that is necessary to assist in investigating the complaint.

(3) Any person who fails to comply with an order made under this Section is guilty of an offence.

(4) A person who is guilty of an offence under subsection (3) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than six months, or both.

26D (1) Subject to subsection (4), where the Director receives a complaint under subsection 26A(1), the Director may, on notice to the respondent ten days before the day of an appointed hearing, if the Director can identify the respondent sufficiently for service of notice, apply to the Court for a cyberbullying prevention order.

(2) Notwithstanding the Civil Procedure Rules and subject to subsection (3), the Director shall name as a respondent

(a) any person associated with an electronic device, Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified as being used for cyberbullying, or where the person is a minor, a parent of the person; and

(b) any other person against whom the cyberbullying prevention order is sought or a parent of the other person if the other person is a minor.

(3) Where the name of the respondent is unknown and cannot easily be ascertained, an

application for a cyberbullying prevention order may identify the respondent by an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, identified as being used for cyberbullying.

(4) Where the Director determines it is advisable to do so, an application for a cyberbullying prevention order may be made to the Court on an urgent basis, without notice.

26E (1) The Court, where satisfied that a person has possession or control of information that may assist the Court in deciding an application for a cyberbullying prevention order, may make

(a) an order requiring a person to provide to the Court

(i) any information that may help identify a person who may have used an Internet Protocol address, website, username or account, electronic-mail address or other unique identifier, that may have been used for cyberbullying,

(ii) any information that may help identify a device capable of connecting to an Internet Protocol address that may have been used for cyberbullying,

(iii) cellular telephone records,

(iv) inbound and outbound text messaging records,

(v) Internet browsing-history records, and

(vi) other records that would assist in making a determination respecting a cyberbullying prevention order; and

(b) any other order that is necessary to assist in deciding the application.

(2) Any person who fails to comply with an order made under this Section is guilty of an offence.

(3) A person who is guilty of an offence under subsection (2) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than six months, or both.

26F Upon application, the Court may make a cyberbullying prevention order if the Court determines, on a balance of probabilities, that the respondent engaged in cyberbullying of the subject.

26G (1) A cyberbullying prevention order may include any of the following provisions that the Court considers necessary or advisable for the protection of the subject:

(a) a provision prohibiting the respondent from engaging in cyberbullying;

(b) a provision restricting or prohibiting the respondent from, directly or indirectly, communicating with or contacting the subject;

- (c) a provision restricting or prohibiting the respondent from, directly or indirectly, communicating about the subject;
- (d) a provision restricting or prohibiting the respondent from using a specified or any means of electronic communication;
- (e) an order confiscating, for a specified period or permanently, any electronic device capable of connecting to an Internet Protocol address associated with the respondent or used by the respondent for cyberbullying;
- (f) an order requiring the respondent to discontinue receiving service from an Internet service provider;
- (g) any other provision that the Court considers necessary or advisable for the protection of the subject.

(2) A cyberbullying prevention order expires one year after the date it is made.

26H (1) Where a respondent did not have notice of or did not participate in the hearing of an application for a cyberbullying prevention order, the order must be served on the respondent in the manner prescribed by the regulations.

(2) A respondent to whom subsection (1) applies is not bound by a cyberbullying prevention order until served with the order.

(3) Where, upon application to the Court, it appears to the Court that

(a) attempts at service or substituted service of the cyberbullying prevention order on the respondent have failed; and

(b) the respondent is evading service,

the Court may by order dispense with service of the cyberbullying prevention order and the respondent is thereby deemed to be served with and have notice of the cyberbullying prevention order.

26I (1) A respondent against whom a cyberbullying prevention order is made without notice may, within twenty days after being served with the cyberbullying prevention order or such further time as the Court may allow, serve a notice of objection on the Director in the form and manner prescribed by the regulations.

(2) Within ten days of serving the Director with a notice of objection under subsection (1), the respondent shall file with the Court a copy of the notice and proof of service on the Director, in the form prescribed by the regulations.

(3) Within thirty days of being served a notice of objection under subsection (1) or such further time as the Court may allow, the Director may commence an application under Section 26D for a new cyberbullying prevention order.

(4) Where the Director does not commence an application described in subsection (3), the Director shall request the Court to revoke the cyberbullying prevention order, without notice.

(5) A cyberbullying prevention order is not stayed by a notice of objection served or filed under this Section.

26J (1) Where satisfied that it is fit and just to do so, the Court, upon application at any time after a cyberbullying prevention order is made by the Court, may by order

(a) remove or vary any term or condition in the order;

(b) add terms and conditions to the order; or

(c) revoke the order.

(2) Notice of an application for an order under subsection (1) must be served on the Director, if the Director is not making the application, and on the respondent, if the respondent is not making the application.

(3) Section 26H applies with necessary modifications to an order made under this Section.

26K (1) An application for a new cyberbullying prevention order may be made in accordance with this Part if

(a) a cyberbullying prevention order has expired or will expire within the next thirty days; and

(b) a person believes that there is a continuing need for a cyberbullying prevention order.

(2) The respondent's compliance with a cyberbullying prevention order does not by itself mean that there is not a continuing need for a cyberbullying prevention order.

26L (1) Where any person involved in a proceeding relating to an application for a cyberbullying prevention order is a minor, no person shall publish or broadcast the name of that person, or any information likely to identify that person.

(2) For greater certainty, subsection (1) continues to apply once the subject, respondent or witness is no longer a minor.

26M On the request of the Director or any person involved in a proceeding relating an application for a cyberbullying prevention order, the Court may make an order prohibiting the publication or broadcast of the name of a person involved in a proceeding relating to the application, or any information likely to identify that person, if the Court is satisfied that the publication or broadcast could endanger the safety or well-being of that person.

26N A person who contravenes Section 26L or an order made under Section 26M is guilty of an offence and liable on summary conviction

(a) in the case of an individual, to a fine of not more than five thousand dollars or imprisonment

for a term of not more than two years, or both; and

(b) in the case of a corporation, to a fine of not more than fifty thousand dollars.

26O (1) The complainant may apply to the Court for a cyberbullying prevention order if the complainant has made a complaint to the Director about cyberbullying and the Director

(a) has decided not to act or not to continue to act on the complaint; or

(b) has abandoned any application already made to the Court.

(2) The complainant shall file with the Court the Director's written confirmation of the facts set out in clause (1)(a) or (b).

(3) The complainant's application must be made within two months after the date of the Director's written confirmation.

(4) Subsections 26D(1) and (2) and Sections 26E, 26F, 26G, 26H, 26J and 26K apply, with necessary modifications, to an application by a complainant, except that a cyberbullying prevention order granted to a complainant must order the Director to take possession of any property that is ordered to be confiscated.

(5) In an application by a complainant, the Court shall not draw an adverse inference from the fact that the Director did, or did not do, any of the things set out in subsection (1).

26P (1) A complainant shall, without delay,

(a) after filing a notice of application for a cyberbullying prevention order, serve a copy on the Director;

(b) after a cyberbullying prevention order is signed, serve a copy on the Director; and

(c) after an application or motion relating to a cyberbullying prevention order application is dismissed, notify the Director.

(2) A document required to be served or notice required to be given under subsection (1) must be served or given in accordance with the regulations.

26Q (1) A complainant shall notify the Director in writing of any intention to abandon an application at least thirty days before taking any step to abandon it.

(2) A complainant shall not abandon an application unless the complainant files with the Court the Director's written confirmation that the Director does not intend to continue the application under Section 26R.

26R The Court may order a complainant's application to be continued in the Director's name if the Director requests the continuation and the Court is satisfied that the complainant consents to the continuation or is not actively pursuing the application.

26S Where the Director believes that a complainant's application for a cyberbullying prevention order is frivolous or vexatious, or is not in the public interest, the Director may intervene in the application to request that it be dismissed.

26T (1) Where the Court finds that a complainant's application or motion is frivolous or vexatious, it may, in addition to any other order for costs, order the complainant to pay costs to Her Majesty in right of the Province.

(2) Costs ordered to be paid under subsection (1) must be paid without delay to the Minister of Finance.

26U Notwithstanding the fact that the respondent consents to an order or does not oppose an application or motion, the Court shall not grant a cyberbullying prevention order to the Director or a complainant unless it is satisfied on the merits that the order should be made.

26V (1) An appeal of an order made by the Court may be taken, on a question of law, in accordance with the Civil Procedure Rules to the Nova Scotia Court of Appeal.

(2) An appeal does not operate as a stay of proceedings, and the protection order under appeal may be enforced as though no appeal were pending unless a judge of the Supreme Court of Nova Scotia or the Nova Scotia Court of Appeal otherwise orders.

26W No action or proceeding, other than an application or appeal under this Part, may be commenced or maintained to

- (a) prevent the making of a cyberbullying prevention order;
- (b) prevent a cyberbullying prevention order from being carried out;
- (c) set aside or vary a cyberbullying prevention order; or
- (d) have a cyberbullying prevention order judicially reviewed.

26X (1) The respondent shall, on demand from the Director, turn over any property ordered to be confiscated under a cyberbullying prevention order.

(2) The Director may take any measures that the Director considers necessary to enforce a cyberbullying prevention order including asking a peace officer to assist in confiscating property that is ordered to be confiscated.

(3) The Director shall store and dispose of confiscated property in the manner prescribed by the regulations.

MATTERS RELATED TO ORDERS UNDER THIS PART

34 Clause 27(3)(b) of Chapter 6 is amended by striking out "a community safety order or an order under Section 9" in the first and second lines and substituting "an order under this Part".

35 Chapter 6 is amended by renumbering Section 30 as subsection 30(1) and

- (a) adding ", school boards" immediately after "agencies" in the second line;
- (b) adding "safe electronic communications and" immediately after "of" in the third line; and
- (c) adding immediately after Section 30 renumbered as subsection 30(1) the following subsections :
 - (2) The Director may consult with and work in co-operation with school boards, police agencies, health authorities and social service and other agencies or groups to develop protocols and agreements for sharing information and managing cyberbullying complaints.
 - (3) The Director may consult with Internet service providers and other persons or organizations to develop protocols and agreements for sharing information and managing Internet customer services, to address and prevent cyberbullying.

36 Chapter 6 is further amended by adding immediately after Section 33 the following Sections:

33A (1) In this Section and Sections 33B, 33C and 36B, "record" means a book, paper, document or thing, whether in electronic form or otherwise, that may contain information relevant to the administration of this Part.

(2) For the purpose of an investigation pursuant to Section 26B, the Director may, at any reasonable time,

(a) subject to subsection (3), enter and conduct an inspection in any building that the Director believes on reasonable grounds contains any record or other thing related to a complaint of cyberbullying;

(b) take photographs and make any type of audio or visual recordings that the Director considers necessary to determine if cyberbullying has occurred;

(c) require any person to produce for inspection any device or equipment that the Director believes on reasonable grounds contains any information relevant to a complaint of cyberbullying;

(d) require any person to produce for inspection and copying any record that the Director believes on reasonable grounds contains any information relevant to a complaint of cyberbullying; and

(e) reproduce or cause to be reproduced any data in the form of a print-out or other intelligible output and seize the print-out or other output.

(3) The Director may only enter a building

(a) with the occupant's consent; or

(b) pursuant to the authority of an order issued pursuant to Section 33C.

(4) No person shall obstruct or hinder or make a false or misleading statement to the Director while the Director is acting pursuant to this Part.

(5) A person who is guilty of an offence under subsection (4) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than one year.

33B (1) The Director may make copies of a record that has been inspected pursuant to Section 33A or taken pursuant to an order made under Section 33C.

(2) A copy of a record certified by the Director to be a copy made pursuant to this Section

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and

(b) has the same probative force as the original record.

(3) The Director shall ensure that, after copies of any records inspected pursuant to Section 33A or an order under 33C are made, the originals are promptly returned to

(a) the place from which they were removed; or

(b) any other place that may be agreed to by the Director and the person who had possession or control of the record.

33C (1) For the purpose of Section 33A or another purpose related to a complaint of cyberbullying or an order relating to cyberbullying, the Director may apply ex parte to the Court for an order authorizing the Director to

(a) enter and conduct an inspection in any building named in the order; and

(b) take possession of any record or other thing that the Director believes contains any information relevant to a complaint of cyberbullying or is the subject of an order relating to cyberbullying.

(2) The Court may issue an order authorizing the Director and any other person named in the order to enter and conduct an inspection in a building and to take possession of any record or other thing if the Court is satisfied that entry to the building is necessary for the purpose of Section 33A or another purpose related to a complaint of cyberbullying or an order relating to cyberbullying .

37 Chapter 6 is further amended by adding immediately after Section 36 the following Sections:

36A (1) Any person who fails to comply with a cyberbullying prevention order is guilty of an offence.

(2) Any person who, knowing that a cyberbullying prevention order has been made, causes, contributes to or permits activities that are contrary to the order, is guilty of an offence.

(3) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine of not more than five thousand dollars or to imprisonment for a term of not more than six months, or both.

36B (1) Any person who destroys information or records that are required to be produced or provided pursuant to this Part is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) is liable on summary conviction

(a) in the case of an individual, to a fine of not more than five thousand dollars or imprisonment for a term of not more than two years, or both; and

(b) in the case of a corporation, to a fine of not more than fifty thousand dollars.

38 Section 63 of Chapter 6 is amended by adding immediately after clause (a) the following clause:

(aa) compensation for any damage or injury caused by confiscation of property under a cyberbullying prevention order, including the loss of or damage to the property;

39 Clause 66(2)(a) of Chapter 6 is amended by striking out "or an order under Section 9" in the second line and substituting ", an order under Section 9 or a cyberbullying prevention order".

40 Section 67 of Chapter 6 is amended by

(a) adding immediately after clause (a) the following clause:

(aa) designating a person in the public service as a Director of Public Safety for the Part of this Act specified in the designation for the purpose of subsection 2(1);

(b) adding immediately after clause (e) the following clauses:

(ea) respecting the service of cyberbullying prevention orders;

(eb) respecting the form, service and filing of a notice of objection under Section 26I;

(ec) respecting the storing and disposal of property seized under this Act;

and

(c) adding immediately after clause (j) the following clause:

(ja) further defining any word or expression used in this Act;

41 Chapter 6 is further amended by adding immediately after Section 67 the following Section:

67A (1) The Minister shall review the activities of the Director under Sections 26A to 26X and related provisions in this Act within three years of the coming into force of this Section and every two years thereafter.

(2) The Minister shall table in the House of Assembly if the House is then sitting or, where the House is not then sitting, file with the Clerk of the House a written report of the review completed under subsection (1).

PART VI

COMING INTO FORCE

42 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.



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